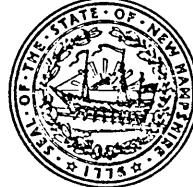


83-111-I

ATTORNEY GENERAL
GREGORY H. SMITH

THE STATE OF NEW HAMPSHIRE



ATTORNEYS
DANIEL J. MULLEN
JAMES D. CAHILL, III
JEFFREY R. HOWARD
G. DANA BISBEE
GREGORY W. SWOPE
PETER T. FOLEY
STEVEN M. HOURAN
EVE H. OYER
EDNA M. CONWAY
AMY L. IGNATIUS
T. DAVID PLOURDE

ASSISTANT ATTORNEYS GENERAL
JOHN T. PAPPAS
ANNE R. CLARKE
MARC R. SCHEER
DONALD J. PERRAULT
MARTIN R. JENKINS
PETER W. MOSSEAU
BETSY S. WESTGATE
EDWARD L. CROSS, JR.
PETER C. SCOTT
MICHAEL A. PIGNATELLI
BRIAN T. TUCKER
PAUL BARBADORO
BRUCE E. MOHL
JOHN A. MALMBERG
DOUGLAS L. PATCH
LORETTA S. PLATT
ROBERT P. CHENEY, JR.
LESLIE J. LUDTKE
ANDREW L. ISAAC
RONALD F. RODGERS

THE ATTORNEY GENERAL
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

September 21, 1983

Mr. Richard M. Flynn, Commissioner
Department of Safety
Hazen Drive
Concord, New Hampshire 03301

Dear Commissioner Flynn:

By memo dated September 1, 1983, you requested our opinion concerning Chapter 393, Laws of 1983 and the licensing of transporters of hazardous materials and wastes. Your specific question was whether you may license the power unit of a vehicle or whether each individual trailer must be licensed. In our opinion, it is proper to license the power unit.

RSA 106-A:20, I, added to the statutes by Laws of 1983, 393:5, provides in part:

"Every person ... who operates a vehicle on the ways of this state transporting hazardous material or waste ... shall first procure from the department of safety an annual license or single trip license for each vehicle so driven."

Although Chapter 106-A contains no definition of "vehicle," the term is defined in RSA 259:122, I as "every mechanical device in, upon or by which any person or property is or may be transported or drawn upon a way, excepting devices used exclusively upon stationary rails or tracks;". Although this definition is found in and specifically applies to the Motor Vehicle Code, it is a principle of statutory construction that related statutes are relevant when interpreting a particular statute. Sutherland, Statutory Construction, §51.01 (4th ed.



1972). The definition of "vehicle" in RSA 259:122, I is therefore relevant to an interpretation of the term "vehicle" as used in RSA 106-A:20. Although the definition in RSA 259:122, I is somewhat ambiguous, its terms "is or may be transported or drawn" clearly imply that to be a vehicle for purposes of the statute, the device must be self-propelled or part of a unit that may transport a person or property. A trailer could not by itself transport property; it must have another device attached to it. The trailer would therefore become part of a vehicle when it was attached to a device that allowed it to be transported.

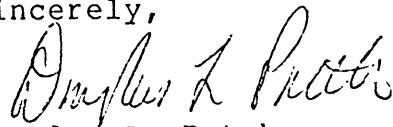
Since it is also a principle of statutory construction that words used in statutes must be given their ordinary meaning unless it appears from the context that a different meaning was intended, Martin v. Gardner Machine Works, 120 N.H. 433 (1980), we can see no reason to require more than one license for each trailer or part of a "vehicle." We must assume that the legislature in using the term "vehicle" meant the whole unit and not its individual parts.

Chapter 393 was originally HB 702 of the 1983 legislative session. The hearing transcripts on HB 702 for both the Senate Committee on Development, Recreation and Environment, May 27, 1983, and the House Appropriations Committee, April 26, 1983, are replete with interchanging references to "trucks" and "vehicles." These transcripts also reveal that the estimates for the fiscal impact of the bill were based on the number of power units or trucks that would have to pay the \$25 fee, not on the number of individual trailers that would be required to pay the fee. The legislative history therefore supports the view that the licensing of a "vehicle" as required by RSA 106-A:20 was intended to mean the licensing of the total vehicle and not of the independent segments of that vehicle. Since the power unit is the essential part of the vehicle for transportation purposes, placing of the decals on that part of the vehicle would in our opinion be a proper interpretation of the law.

In a supplemental memo dated September 8, 1983, you asked whether you could permit a trucking firm to register merely a portion of its fleet on a pro-rated basis and issue operating rights to the company rather than decals to each truck. In our opinion, since RSA 106-A:20 specifically requires the licensing of "each vehicle," the method you have described would not comply with the statute because each vehicle used to transport hazardous material or waste as described in RSA 106-A:20 would not necessarily be licensed.

I trust this has answered your question. Please let us know if you require anything further.

Sincerely,



Douglas L. Patch
Assistant Attorney General
Division of Legal Counsel

DLP:ab

cc: His Excellency, John H. Sununu
Mr. Earl M. Sweeney, Deputy Commissioner
#83-111-I